

Fwd: Special Employee

David Singer

Mon, Oct 26,
5:22 PM (15
hours ago)

to me

Please forward this to the Committee and significant others.

Thanks.

Begin forwarded message:

From: hawkins_publicsafety Hawkins <butch.hawkins@greenfield-ma.gov>

Subject: Special Employee

Date: October 26, 2020 at 5:15:59 PM EDT

To: David Singer <djsinger@verizon.net>

Hi David,
Here it is:

Also, Section 6-11 Public Safety Commission under the charter we would like to add a clause.

1. under(d) powers and duties:

#5 Make recommendations to the mayor concerning EMS (emergency medical services / ambulance services) for contracting with city,, zones service and general services.

We have done this for years with the current service and two former companies.
For additional info contact Chief Strahan.

Thanks, Butch

Special Municipal Employees- Explanation of the Conflict of Interest Law

Information about how the conflict of interest law applies to individuals who have been designated as special municipal employees.

Conflict of Interest Law Questions and Answers

The conflict of interest law, G.L. c. 268A, covers all municipal officials and employees, whether elected or appointed, paid or unpaid, full-time or part-time. However, two sections of the conflict law apply less restrictively to those part-time or unpaid municipal officials who have been designated as "special municipal employees."

"Special municipal employee" status can be assigned to certain municipal positions by a vote of the board of selectmen, board of aldermen, town council or city council.

G.L. c. 268A, Â§ 1(n). (Town councils are empowered by G.L. c. 39, Â§ 1 to exercise all duties and powers of boards of aldermen.) Your position is eligible to be designated as a "special municipal employee" position provided that:

- you are not paid; or
- you hold a part-time position which allows you to work at another job during normal working hours; or
- you were not paid by the city or town for more than 800 working hours (approximately 20 weeks full-time) during the preceding 365 days.

It is the municipal position that is designated as having "special" status, not the individual. Therefore, all employees holding the same office or position must have the same classification as "special municipal employees." For instance, one member of a school committee cannot be classified as a "special" unless all members are similarly classified.

The designation may be made by a formal vote of the board of selectmen, board of aldermen, town council or city council at any time. Separate votes should be taken for each board or position being designated, expressly naming the positions being designated. Once a position is designated as having "special" status, it remains a "special municipal employee" position unless and until the classification is rescinded. A list of all the "special municipal employee" positions should be on file at the town or city clerk's office. This list also should be filed with the Ethics Commission.

A mayor, city councilor, alderman, town councilor, or selectman in a town with a population of more than 10,000 may not be designated as a "special." In towns with a population of 10,000 or less, however, selectmen are automatically considered

"special" employees. Other municipal positions in towns with a population of less than 10,000 must still be designated as "special municipal employee" positions by the selectmen.

The Legislature may also designate certain positions to have "special municipal employee" status. For example, board members of local housing authorities and redevelopment authorities and professionals who provide services to these agencies are defined by law as "special municipal employees" and do not need to have local authorities approve their designation as "specials." (*See* G.L. c. 121B, Â§ 7.)

THE CONFLICT LAW IS LESS RESTRICTIVE FOR "SPECIALS"

Only two sections of the conflict of interest law apply less restrictively to "specials", Â§Â§ 17 and 20. All other sections of the conflict law that govern regular municipal employees apply to "special municipal employees" in exactly the same way. See the Explanation of the Conflict of Interest Law for Municipal Managers or the Summary of the Conflict of Interest Law for Municipal Employees for information on your responsibilities under the law. Remember that even if you serve on an unpaid part-time board or commission, you are still considered a regular municipal employee unless your position has been expressly designated as having "special municipal employee" status.

Section 17 - Acting on Behalf of Others

Section 17 generally prohibits municipal employees from representing a private party or anyone else before municipal boards or departments of the city or town which they serve. It also prohibits municipal employees from acting as agent or attorney for a private party or anyone else in connection with a matter if the city or town is a party to the matter or has a direct and substantial interest in it. Finally, Â§ 17 prohibits municipal employees from accepting pay or other compensation from a private party or anyone else in connection with such a matter.

These rules prohibit you from representing other governmental entities before agencies and boards of your city or town. You may not receive compensation from, or act as agent or attorney for, the federal government, the state of Massachusetts, or another municipality in relation to matters of interest to the agencies or boards of the city or town which you serve.

If you are a special municipal employee, however, a more lenient rule applies to you. Your obligations will depend on how many days you serve as a special municipal employee. If you serve for 60 days or fewer in a 365-day period, you may receive compensation from, or act as agent or attorney for, someone other than the

municipality in relation to a municipal matter so long as you have not participated in the matter as a special municipal employee and you also do not have responsibility for the matter as a special municipal employee and have not had such responsibility during the prior year. If you serve as a special municipal employee for more than 60 days in a 365-day period, you are subject to an additional restriction, and you may not engage in these activities in relation to any matter pending before your own agency.

Generally, if you are a special municipal employee, you will be able to do work for someone or communicate on someone's behalf in relation to a matter before a municipal board or agency other than the one you serve, but not in relation to a matter before your own board or agency. For example, if you are a lawyer and you are a member of the Board of Health, you may represent a client of your law firm before the Conservation Commission or the School Committee, but not before the Board of Health. If you anticipate that a matter before another municipal agency will come before your own municipal agency, however, you should not receive compensation from someone or act as agent or attorney for someone in relation to the matter before the other agency.

Example: You are a Conservation Commissioner. The Commission has been given "special municipal employee" status. You are also an engineer in private practice in town.

- You may be hired as site engineer and represent a private development company at a Planning Board hearing, as long as the hearing does not in any way involve Conservation Commission matter.
- However, if the hearing is about a wetlands dispute, you could not represent the developer before the Planning Board because the matter is under your official responsibility as Conservation Commissioner.
- Also, if the developer is going to submit site plans, blueprints, structural analyses or other professional documents to the Conservation Commission (or to any other municipal boards, in connection with matters under the Conservation Commission's responsibility), you may not be compensated as a site engineer for preparing them and may not sign or certify them.
- Also, you may not be paid for giving the developer advice about how to get his project approved by the Conservation Commission, or for any other activity related to the Conservation Commission review process.

Note that the prohibition against "acting as agent" covers any type of activity that involves representing someone other than your city or town. Activities which can be considered "acting as agent" include: serving as someone's spokesperson; making phone calls or writing letters; acting as a liaison; affixing professional seals or signing supporting documentation; and participating as an electrician, plumber or other contractor during municipal building inspections. For more information about Â§ 17, read Advisory 88-01: Municipal Employees Acting as Agent.

Section 20 -- Restrictions on Having an Interest in Contracts with your City or Town

Section 20 generally prohibits municipal employees from having a direct or indirect financial interest in a contract with their city or town. However, there are many exemptions in this section of the law. For instance, a municipal employee may own less than 1% of the stock of a company that does business with the municipality.

Also, a municipal employee may have a financial interest in a contract with a municipal department which is completely independent of the one where he works, provided that the contract has been publicly advertised or competitively bid, and the employee has filed a disclosure of his interest in the contract with the city or town clerk. Note that there are additional requirements for personal services contracts: contact the State Ethics Commission's Legal Division or your town counsel or city solicitor for more information.

However, if you are a "special municipal employee," you have two additional exemptions to Â§ 20. These exemptions are available if you are a special municipal employee of a municipal agency or a municipal district overseen by a district prudential committee. When you want to have a financial interest in a contract made by a municipal agency, the choice between the two exemptions will depend on whether you, as a special municipal employee, participate in or have official responsibility for any of the activities of the municipal agency that makes the contract.

As a "special municipal employee," you may have a financial interest in a contract with a department which is completely independent of the one where you work, provided that you file a disclosure of your interest in the contract with the city or town clerk (there is no "public notice" or "competitive bidding" requirement for this "special municipal employee" exemption).

As a "special municipal employee," you even may have a financial interest in a contract with your own department. If you participate in or have official responsibility for any of the activities of another department, you may have a financial

interest in a contract made by that department, too. To have these financial interests, you must complete a disclosure of your financial interest in the contract. The board of selectmen, board of aldermen, town council, city council or district prudential committee must vote to approve the exemption from Â§ 20, and you must file the approved disclosure with the city or town clerk.

Example: You are a member of the School Committee, which has been given "special municipal employee" status. You also own a hardware store in town.

- You may sell light bulbs to the town's Department of Public Works, because as a School Committee member, you have no responsibility for anything that the Department of Public Works does. You must file a disclosure of your interest in the light bulb sales with the Town Clerk.
- You also may sell light bulbs to the School Department (which is under the School Committee's jurisdiction), but only if you submit a disclosure of your interest in the light bulb sales, the Board of Selectmen vote to exempt your light bulb sales from the restrictions of Â§ 20, and you file the approved disclosure with the Town Clerk.

Section 20 -- Restrictions on Holding Multiple Municipal Positions

Because the restrictions of Â§ 20 also apply to employment contracts, municipal employees are generally prohibited from holding more than one municipal position. However, there are many exemptions to this general prohibition. If you are a municipal employee -- regular or "special", you may:

- hold any number of unpaid positions, because you do not have a financial interest in any of the positions (however, if you hold even one paid appointed position, you must look for other exemptions);
- hold any number of elected positions, whether paid or unpaid, because you serve in those positions by virtue of your election, rather than because of an appointment or employment contract (however, if you hold even one paid appointed position, you must look for other exemptions); and
- in some instances, you may hold more than one paid appointed position, provided that the jobs are in separate departments, and in the department you already serve you do not have responsibility for any of the activities of the other department, and the job you are adding has been publicly advertised. However, your board of selectmen, board of aldermen, town council, or city

council must vote to exempt you from Â§ 20, and there are also other requirements you must meet.

- hold more than one position in a town with a population of less than 3,500 if the board of selectmen formally approves the additional appointments.

If you are a special municipal employee, you may take advantage of the two exemptions for special municipal employees explained above. Because you are a "special municipal employee", you may also:

- hold another compensated, appointed municipal position with another municipal department if you do not participate in or have official responsibility for any of its activities, provided that you file a disclosure of your financial interest in the added position with the city or town clerk; and
- hold another compensated, appointed municipal position, even if you do participate in or have official responsibility for any of the department's activities, provided that you file a disclosure of your financial interest in the added position with the city or town clerk, and the board of selectmen, board of aldermen, town council, city council or district prudential committee votes to exempt you from Â§ 20.

Example: As a Cemetery Commissioner, you are a "special municipal employee."

- You may also hold a compensated position at the Public Library because, as a Cemetery Commissioner, you do not participate in or have official responsibility for any of the activities of the Library. However, you must file a disclosure of your financial interest in the added position (the compensation you will earn at the Library) with the town clerk.

Example: As a part-time administrative assistant for the City's public schools, you are a "special municipal employee." •

- You also want to hold a compensated position as a clerk in the school library. Because you want to have a second compensated position with the agency you already serve, you must complete a disclosure, the city council must vote on whether to approve the exemption from Â§ 20, and the disclosure must be filed with the city clerk.

For more information about restrictions on holding an interest in municipal contracts or multiple municipal positions, read the Primer on Financial Interests in Contracts for

Municipal Employees, or contact your city solicitor or town counsel or the Legal Division of the State Ethics Commission.

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Commission summaries are prepared and issued by the Public Education and Communications Division of the State Ethics Commission. They are intended to provide guidance to public officials and employees concerning practical applications of the conflict law. For further information, contact your town counsel or city solicitor, or the Legal Division of the State Ethics Commission.

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